

1 **SHAFFY MOEEL, ESQ.**
2 Cal State SBN 238732
3 MOEEL LAW OFFICE
4 P.O. Box 2737
5 El Cerrito, California 94530
6 Telephone: (415) 735-5021
7 Email: shaffymoeel@gmail.com

8 Attorney for Defendant
9 ALVIN FLORIDA JR.

10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **OAKLAND DIVISION**

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 vs.

17 ALVIN FLORIDA, JR. *ET AL.*,

18 Defendants.

Case No. 14-CR-582 PJH

**DEFENDANTS' PROPOSED JURY
INSTRUCTION**

19 On November 8, 2016, the Court directed the parties to meet and confer with respect to
20 the government's proposed instruction 40: Testimony of Witnesses Involving Special
21 Circumstances—Immunity, Benefits, Accomplice, Plea. The parties have met and conferred
22 and are unable to agree on a joint instruction. The defense hereby submits its proposed
23 instruction. The defense notes that its proposed instruction tracks the language of 9th Circuit
24 Model Criminal Jury Instruction 4.9 more closely than the government's proposed instruction.
25 In addition, the defense's proposed instruction tracks, in relevant part, the language of the
26 instruction given by Judge Gonzalez Rogers in the trial of *United States v. Cervantes*,
27 12cr00792-YGR, Dckt. 1383 p. 30 of 108 and Dckt. 1395 p. 29 of 106.

1 **TESTIMONY OF WITNESSES INVOLVING SPECIAL CIRCUMSTANCES**

2
3 You have heard testimony from several witnesses to whom this instruction applies. The
4 witnesses, Danli Lui, Douglas Ditmer, Bradley Roemer, Miguel De Sanz, and Jorge Wong are
5 witnesses who may be hoping for further consideration from the Government at a future time,
6 and/or who pleaded guilty to crimes pursuant to a cooperation agreement with the Government
7 in the hope of receiving leniency. Any guilty plea arising out of the same events for which the
8 defendants are on trial is not evidence against the defendants in this case and you may consider
9 the evidence of the guilty pleas of those witnesses who testified about such pleas only in
10 determining the witness's believability.
11

12 In evaluating the witness's testimony, you should consider the extent to which or
13 whether his or her testimony may be influenced by any of these factors. In addition, you should
14 examine his or her testimony with greater caution than that of other witnesses.
15
16
17
18
19
20
21
22
23
24
25

26 9th Circuit Model Criminal Jury Instruction 4.9, *United States v. Cervantes, et al.*, 12cr00792-
27 YGR.
28

1 DATED: November 9, 2016

Respectfully submitted,

2 _____/s/_____

3 SHAFFY MOEEL

4 Attorney for Defendant

ALVIN FLORIDA, JR.

5 _____/s/_____

6 STEVEN GRUEL

7 Attorney for Defendant

8 ROBERT ALHASHASH RASHEED

9 _____/s/_____

10 JOHN FORSYTH

11 Attorney for Defendant

JOHN LEE BERRY, III

12 _____/s/_____

13 EDWIN PRATHER

14 Attorney for Defendant

15 REFUGIO DIAZ